



**House Bill No. 6276**

**Public Act No. 11-15**

***AN ACT CONCERNING COMPETENCY TO STAND TRIAL.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (j) of section 54-56d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(j) The person in charge of the treatment facility, or such person's designee, shall submit a written progress report to the court (1) at least seven days prior to the date of any hearing on the issue of the defendant's competency; (2) whenever he or she believes that the defendant has attained competency; (3) whenever he or she believes that there is not a substantial probability that the defendant will attain competency within the period covered by the placement order; [or] (4) whenever, within the first one hundred twenty days of the period covered by the placement order, he or she believes that the defendant would be eligible for civil commitment pursuant to subdivision (2) of subsection (h) of this section; or (5) whenever he or she believes that the defendant is still not competent but has improved sufficiently such that continued inpatient commitment is no longer the least restrictive placement appropriate and available to restore competency. The progress report shall contain: (A) The clinical findings of the person submitting the report and the facts on which the findings are based; (B)

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the opinion of the person submitting the report as to whether the defendant has attained competency or as to whether the defendant is making progress, under treatment, toward attaining competency within the period covered by the placement order; (C) the opinion of the person submitting the report as to whether the defendant appears to be eligible for civil commitment to a hospital for psychiatric disabilities pursuant to subsection (m) of this section and the appropriateness of such civil commitment, if there is not a substantial probability that the defendant will attain competency within the period covered by the placement order; and (D) any other information concerning the defendant requested by the court, including, but not limited to, the method of treatment or the type, dosage and effect of any medication the defendant is receiving. Not later than five business days after the court finds either that the defendant will not attain competency within the period of any placement order under this section or that the defendant has regained competency, the person in charge of the treatment facility, or such person's designee, shall provide a copy of the written progress report to the examiners who examined the defendant pursuant to subsection (d) of this section.

Sec. 2. Subdivision (1) of subsection (k) of section 54-56d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(k) (1) [When] Whenever any placement order for treatment is rendered or continued, the court shall set a date for a hearing, to be held within ninety days, for reconsideration of the issue of the defendant's competency. Whenever the court (A) receives a report pursuant to subsection (j) of this section which indicates that (i) the defendant has attained competency, (ii) the defendant will not attain competency within the remainder of the period covered by the placement order, (iii) the defendant will not attain competency within the remainder of the period covered by the placement order absent

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administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, [or] (iv) the defendant would be eligible for civil commitment pursuant to subdivision (2) of subsection (h) of this section, or (v) the defendant is still not competent but has improved sufficiently such that continued inpatient commitment is no longer the least restrictive placement appropriate and available to restore competency, or (B) receives a report pursuant to subparagraph (A)(iii) of subdivision (2) of subsection (h) of this section which indicates that (i) the application for civil commitment of the defendant has been denied or has not been pursued by the Commissioner of Mental Health and Addiction Services, or (ii) the defendant is unwilling or unable to comply with a treatment plan despite reasonable efforts of the treatment facility to encourage the defendant's compliance, the court shall set the matter for a hearing not later than ten days after the report is received. The hearing may be waived by the defendant only if the report indicates that the defendant is competent. The court shall determine whether the defendant is competent or is making progress toward [attainment of] attaining competency within the period covered by the placement order. If the court finds that the defendant is competent, the defendant shall be returned to the custody of the Commissioner of Correction or released, if the defendant has met the conditions for release, and the court shall continue with the criminal proceedings. If the court finds that the defendant is still not competent but that the defendant is making progress toward attaining competency, the court may continue or modify the placement order. If the court finds that the defendant is still not competent but that the defendant is making progress toward attaining competency and inpatient placement is no longer the least restrictive placement appropriate and available to restore competency, the court shall consider whether the availability of such less restrictive placement is a sufficient basis on which to release the defendant on a promise to appear, conditions of release, cash bail or bond and may order continued treatment to restore competency on an outpatient

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basis. If the court finds that the defendant is still not competent and will not attain competency within the remainder of the period covered by the placement order absent administration of psychiatric medication for which the defendant is unwilling or unable to provide consent, the court shall proceed as provided in subdivisions (2), (3) and (4) of this subsection. If the court finds that the defendant is eligible for civil commitment, the court may order placement of the defendant at a treatment facility pending civil commitment proceedings pursuant to subdivision (2) of subsection (h) of this section.

Approved May 24, 2011